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In re Application of : DECISION ON
BACH-Y-RITA et al. : PAPERS UNDER 37 CFR 1.42
Application No.: 10/577,282 :
PCT No.: PCT/US04/35305 :
Int. Filing Date: 22 October 2004 :
Priority Date: 22 October 2003 :
Attorney Docket No.: WICAB-10943 :
For: TACTILE INPUT SYSTEM

This decision is issued in response to the declaration filed 07 June 2007 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 22 October 2004, applicants filed international application PCT/US04/35305, which claimed a priority date of 22 October 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 24 April 2006. (22 April 2006 was a Saturday and 23 April 2006 was a Sunday.)

On 24 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, *inter alia*, by: the basic national fee, a copy of an international application; and a copy of the international search report.

On 05 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(h).

On 07 June 2007, applicants filed a declaration and power of attorney executed by Edward N. Fisher as an inventor and Juana Esther Bach-Y-Rita on behalf of deceased inventor, Paul Bach-Y-Rita.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

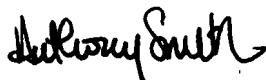
The declaration filed 07 June 2007 is executed by Edward N. Fisher as an inventor and Juana Esther Bach-Y-Rita as the "legal representative" of the deceased inventor, Paul Bach-Y-Rita. However, a review of the declaration of inventors filed on 07 June 2007 reveals that it contains a handwritten and uninitialed alteration. Specifically, an additional address has been added to the declaration. It is not clear whether these changes were made before execution of the declaration. A declaration may not be altered after execution; furthermore, alterations must be initialed and dated. See 37 CFR 1.52(c). Applicants must submit a new declaration.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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